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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/003,370	11/15/2001	Hamid S. Abroy	LEX-80	4701
<div>7590      01/08/2008</div> <div>SQUARE D COMPANY 1415 South Roselle Road Palatine, IL 60067</div>				
			EXAMINER TRAN, HANH VAN	
			ART UNIT 3637	PAPER NUMBER,
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No. 10/003,370	Applicant(s) ABROY, HAMID S.	
	Examiner Hanh V. Tran	Art Unit 3637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 16 October 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. This is the Final Office Action from the examiner in charge of this application in response to applicant's amendment dated 10/16/2007.

#### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-5, and 9-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
4. In claims 1 and 5, the preamble clearly indicates that a subcombination is being claimed, i.e., "A housing for securing an arc plate,...said housing comprising..." This language would lead the examiner to believe that the applicant intends to claim only the subcombination of a "housing," the arc plate is only functionally recited. This presents no problem as long as the body of the claim also refers to the arc plate functionally, such as, "said stop member adapted to engage said first end of said arc plate". The problem arises when the arc plate is positively recited within the body of the claim, such as, "said stop member engaging said first end of said arc plate". In this case there is an inconsistency between the language in the preamble and certain portions in the body of the claim, thereby making the scope of the claim unclear. Since applicant has stated in the Remarks section that the intent is to claim the combination of the housing and arc plate, claims 1 and 5, (1) line 1, "A housing for securing an arc plate" should be

amended to be along the line of "A housing in combination with an arc plate", (2) lines 13 and 19, "for receiving" should be "to receive".

5. Claim 9, since line 7 recites the locking member being secured in "spaced relation to said first wall", the limitation on line 8-9 of the resilient member of the locking member having the first end "fixedly attached to said first wall" renders the claim indefinite for failing to clearly define how it is possible for the locking member to be secured in "spaced relation" and then having an end "fixedly attached" to the first wall. Clarification or correction is required.

***Claim Rejections - 35 USC § 103***

6. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

7. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

8. Claims 1-11 stand rejected under 35 U.S.C. 103(a) as being unpatentable over USP 5,589,672 to Uchida et al in view of USP 5,645,329 to Madock.

Uchida et al. disclose an integrally molded housing (14) (Figs. 1 and 2) comprising all the elements recited in the above listed claims including an arc plate (2), the arc plate including a first longitudinal edge (2a), an opposed second longitudinal

edge (2a), a notched first end (16), and a second end (2b) opposed to the first end, the housing having a first support member (14a); a second support member (14a) secured in a spaced relation to the first support member; a first securing ledge protruding from the first support member and toward the second support member; the first securing ledge having a lower surface; a second securing ledge protruding from the first support member and toward the second support member and having an upper surface, the first securing ledge lower surface and the second securing ledge upper surface defining a first slot 15 to receive the first longitudinal edge of the arc plate; a third securing ledge protruding from the second support member and toward the first support member; the third securing ledge having a lower surface; a fourth securing ledge protruding from the second support member and toward the first support member and having an upper surface, the third securing ledge lower surface and the fourth securing ledge upper surface defining a second slot 15 to receive the second longitudinal edge of the arc plate. Uchida et al. disclose the claimed invention except for a locking member secured in spaced relation to said first wall and including a resilient member and a tab, said resilient member having a first end fixedly attached to said first wall and having a second end connected to said tab, said tab having an inside face in contact with said arc plate; a back atop member secured in spaced relation to said first wall, said back stop member being resilient and deformable, said back stop member being deformed and in contact with said arc plate, whereby said back stop member pushes said arc plate towards said tab; whereby said arc plate is secured by said first slot, said second slot, said back stop member, and said locking member; and wherein the first support

member, the second support member, the first securing ledge, the second securing ledge, the stop member, and the locking member form an integral molded assembly.

Madock teaches a housing (Figs. 1-7) capable of securing a plate-shaped structure having integrally molded supports (12) having resilient stop members (104); locking members (106) including a resilient member (108) and a tab (114), the resilient member having a first end fixedly attached to a first securing ledge (82-90) and having a second end connected to the tab, the tab having an inside face (116) for securing a plate-shaped structure in the housing. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ the integrally molded supports with all of the elements taught by Madock, modifying the integrally molded housing, the stop members, the locking members and securing ledges, disclosed by Uchida et al., thus forming an integrally molded assembly comprising support members, securing ledges, stop members and locking members, thereby substantially reducing the cost of manufacturing of the housing (Madock: col. 4, lines 31-34), as well as allowing for the partial ejection of the arc plate from the housing so that it may be easily grasped by a user (Madock: col. 1, lines 39-42). In further regards to claim 4, it would have been obvious to one having ordinary skill in the art at the time the invention was made to form the apparatus and all of the elements disclosed by Uchida et al. and Madock, since it has been held that forming in one piece an article which has formerly been formed in two pieces and put together involves only routine skill in the art. *Howard v. Detroit Stove Works*, 150 U.S. 164 (1893).

***Response to Arguments***

9. Applicant's arguments filed 10/16/2007 have been fully considered but they are not persuasive. In response to applicant's argument on page 8 that Uchida et al fails to disclose the claimed limitation of the securing ledges 210,210' being "protruding from said support member", the examiner respectfully takes the position that the claimed language fails to provide adequate structural limitations to the claim in order to distinguish from the prior art of record, and that Uchida clearly discloses securing ledges (not numbered) protruding from the support members 14a forming slots 15.

10. In response to applicant's argument on pages 8-9 that the combination of Uchida and Madock fails to meet all the claimed limitations and because the spring 104, cantilevered portion 108 and actuator portion 114 of Madock are integral parts extending from the bottom wall 12, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981). Further, it is well known in the art that a plate-shaped structure can be stored in a housing in either a vertical or horizontal direction.

11. In response to applicant's argument that the stop members and locking members of Madock would require slots 110 and 112 to permit their resilience, thus would prohibit proper operation of the arc housing, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary

reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

12. In response to applicant's argument on pages 9-10 that the examiner's reasons for combining the references are not an objective of the present invention, the examiner respectfully takes the position that the reason(s) for combining the references do not need to be the same as the objective of applicant's invention.

### ***Conclusion***

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.



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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hanh V. Tran whose telephone number is (571) 272-6868. The examiner can normally be reached on Monday-Thursday, and alternate Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

HVT *HVT*  
January 03, 2008

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